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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CHINA CENTRAL TELEVISION, a China
company; CHINA INTERNATIONAL
COMMUNICATIONS CO., LTD., a China
company; TVB HOLDINGS (USA), INC., a
California corporation; and DISH
NETWORK L.L.C., a Colorado corporation,
Plaintiffs,

vs.

CREATE NEW TECHNOLOGY (HK)
LIMITED, a Hong Kong company; HUA
YANG INTERNATIONAL TECHNOLOGY
LIMITED, a Hong Kong company;
SHENZHEN GREATVISION NETWORK
TECHNOLOGY CO. LTD., a China
company; CLUB TVPAD, INC., a California
corporation; BENNETT WONG, an
individual, ASHA MEDIA GROUP INC.
d/b/a TVPAD.COM, a Florida corporation;
AMIT BHALLA, an individual;
NEWTVPAD LTD. COMPANY d/b/a
NEWTVPAD.COM a/k/a TVPAD USA, a
Texas corporation; LIANGZHONG ZHOU,
an individual; HONGHUI CHEN d/b/a E-
DIGITAL, an individual; JOHN DOE 1 d/b/a
BETV; JOHN DOE 2 d/b/a YUE HAI; JOHN
DOE 3 d/b/a 516; JOHN DOE 4 d/b/a HITV;
JOHN DOE 5 d/b/a GANG YUE; JOHN
DOE 6 d/b/a SPORT ONLINE; JOHN DOE 7
d/b/a GANG TAI WU XIA; and JOHN DOES
8-10,

Defendants.

Case No.
CV 15-1869 SVW (AJWx)

**DECLARATION OF
NICHOLAS BRAAK IN
SUPPORT OF PLAINTIFFS'
MOTION TO AMEND
DEFAULT JUDGMENT AND
PERMANENT INJUNCTION**

Courtroom: 10A
Judge: Hon. Steven V.
Wilson

DECLARATION OF NICHOLAS BRAAK

I, Nicholas Braak, declare as follows:

1. I am a licensed private investigator and have worked as a computer forensics investigator for more than nine years. I am employed by the Mintz Group LLC (“Mintz”), a corporate research and investigations firm based in New York, with offices in Washington D.C., London, Hong Kong, Beijing, Nairobi, and six other cities throughout the world. I have worked for Mintz since January 2014. During my career in information security and digital forensics, I have participated in hundreds of investigations involving intellectual property rights, cybercrime, Internet forensics, and other matters. I make this declaration in support of Plaintiffs’ motion to amend the permanent injunction in this action. I have personal knowledge of the facts contained herein and, if called upon as a witness, I could and would testify competently about these facts, except for those matters stated expressly upon information and belief, which matters I believe to be true.

2. Mintz was retained in 2014 by Plaintiffs China Central Television (“CCTV”), China International Communications Co., Ltd. (“CICC”), TVB Holdings (USA), Inc. (“TVB (USA)”) and DISH Network L.L.C. (“DISH”) (collectively “Plaintiffs”) to investigate the TVpad device manufactured by defendant Create New Technology (HK) Limited (“CNT”) and the unlicensed international television programming provided to U.S. consumers through the TVpad device (the “TVpad Service”).

3. I have managed the forensic investigation for this matter and conducted research at the direction of Christopher Weil, the lead investigator. During the course of our investigation, Mintz purchased several TVpad3 and TVpad4 devices. I personally forensically tested each of these TVpad devices and confirmed their consistent functionality among TVpads of the same model. I also personally viewed and caused to be recorded streamed content delivered by these devices and have

1 periodically monitored the continued availability of that streamed content through
2 these devices and the TVpad Service.

3 4. As part of my forensic investigation, I identified the IP addresses and
4 domain names that the TVpad device and its Infringing TVpad Apps use to function
5 and deliver CCTV and TVB television programming. I have also continually
6 monitored the TVpad devices purchased by Mintz to determine whether the TVpad
7 devices continue to stream CCTV and TVB programming through the applications
8 available in the TVpad Store.

9 5. In my experience, manufacturers such as CNT of devices like the TVpad
10 often attempt to thwart enforcement actions taken against them by content owners,
11 including by changing the location of online resources utilized by such devices and
12 rebranding the devices under new names.

13 6. Since this Court's issuance of the preliminary injunction order in this
14 proceeding, on June 11, 2015, and up to the present day, I have observed that CNT
15 has done just this. Plaintiffs have regularly sought to enforce this Court's injunctions
16 by serving them on internet service providers hosting TVpad content on their servers,
17 subject to the injunctions, and these internet service providers have responded by
18 taking down that content. As I discussed in paragraph 6–7 my October 26, 2015,
19 declaration, since this Court's issuance of the preliminary injunction order, CNT and
20 unidentified parties working in conjunction with CNT ("Enjoined Parties") have
21 responded to Plaintiffs' enforcement efforts by speedily setting up new servers at
22 new IP addresses to evade Plaintiffs' enforcement of this Court's injunctions. A copy
23 of my October 26, 2015 declaration is attached hereto as **Exhibit 1**.

24 7. As I stated in paragraph 8 of that declaration, CNT also communicated
25 directly to TVpad users to provide them with methods to alter the settings on TVpad
26 devices to evade Plaintiffs' enforcement efforts.

27 8. Since issuance of the default judgment orders in this action, the
28 Enjoined Parties have continued to set up new servers at new IP addresses.

1 Defendants have also expanded the scope of their evasive conduct both to address
2 new provisions in the default judgment orders and to stay a step ahead of them.

3 9. The default judgment orders provide for the disabling of domain names
4 used by Defendants, and Plaintiffs have requested and obtained disabling of some of
5 those domain names. In response, Defendants have created new domain names that
6 the TVpad device uses to locate and access operational content, which allows the
7 device and app software to function, and streaming video content, including
8 Plaintiffs' copyrighted television programming.

9 10. Defendants also shifted tactics by using third-party content hosting and
10 delivery websites to move operational and streaming video content to TVpad
11 devices. I observed TVpad devices reaching out to specific URLs belonging to the
12 GitHub and Incapsula content hosting websites in order to download and stream
13 operational and video content. A table identifying the servers and content repositories
14 most recently used by the TVpad device to deliver operational and streaming video
15 content by IP address, domain name and/or URL is attached hereto in **Exhibit 2**.

16 11. Further, it appears that CNT has shifted tactics recently by introducing a
17 new set-top-box device—very much like the TVpad and capable of streaming CCTV
18 and TVB programming—under the name “blueTV.” As more fully discussed below,
19 both Internet message board discussion and forensic evidence reflect that CNT is the
20 source of this new infringing device.

21 12. I researched sales and marketing of the blueTV device and conducted a
22 forensic examination of the device's functionality and the underlying technology. My
23 research revealed public claims that the TVpad manufacturer CNT is also the source
24 of the blueTV device. My forensic examination showed that the technology
25 underlying the blueTV is functionally identical to the technology underlying the
26 TVpad. My examination also uncovered numerous other similarities between the
27 devices, indicating CNT is the source of both of them, such as the use of the same
28

1 Internet addresses to download content and the use of identical naming conventions
2 and software component names. I discuss my findings below.

3 Internet Discussion

4 13. In the course of my continual investigation and monitoring of CNT's
5 marketing and sales of TVpad devices and the functionality of TVpad devices, I
6 came across Internet articles and discussions positing that a new device, the blueTV,
7 was a new version of the TVpad, bearing a different brand.

8 14. For example, a blog post on the website TVPadNews.com, titled
9 "BlueTV Review...TVPad 5 in disguise?" reads:

10 Are you looking for an substitute to TVPad 4 ? Why not take a look at TVPad
11 5! Or... I mean the BlueTV IPTV Media Box

* * *

12 The BlueTV is another IPTV Android box marketed towards the Chinese
13 speaking crowd. The box is manufactured by the same folks that created
14 TVPad.

15 The manufacturers had stated the BlueTV will work out of the box for US
16 region without needing any VPN/DNS solution.

* * *

17 The main app for the BlueTV is called Storm TV. It is a consolidation of
18 multiple apps on the TVPad4, 港粵網絡電視 (Cantonese), 寶島電視
19 (Taiwan), BETV (Mandarin). The layout is a little bit different but you get the
20 idea... One thing you may like about Storm TV is that it does have separate
21 version for English and Chinese. So if you are using the box for elderly
22 parents, this may be a plus.

* * *

23 For Cantonese the Storm TV line up is basically the same as TVPad 4's. TVB,
24 TVB News, J2, J5, Peral, VIU TV, RTHK... etc

* * *

25 The TVPad parent company (啟創科技) doesn't appear to be going anywhere.
26 Despite what happened to the lawsuits, this company appears to be alive and
27 kicking. Evidently they are basically following what I predicted they would
28 do; rebrand themselves and business as usual.

True and correct screenshots of this blog post on the website TVPadNews.com, that I
took on April 14, 2017, are attached hereto as **Exhibit 3**.

15. The Internet retailer cntvpad.com sells blueTV devices and TVpad
devices. The blueTV product web page on this retailer's website—branded with the
TVpad logo—incorporates some of the text from the TVPadNews.com blog post
shown in Exhibit 3. This retailer also includes on its blueTV product web page a
hyperlink directly to the same TVPadNews.com article. True and correct screenshots

1 of the cntvpad.com website's TVpad and blueTV product web pages, that I took on
2 April 14, 2017, are attached hereto as **Exhibit 4**. The text "Read more>>" in the
3 screenshots in Exhibit 4 is a hyperlink to the TVPadNews.com blog post shown in
4 Exhibit 3.

5 16. A representative of the Internet retailer cntvpad.com posts on the
6 Internet message boards of the website TVpadTalk under the name "thomastv." In a
7 post on that message board, thomastv touted blueTV as a re-branded TVpad. That
8 message board post reads as follows:

9 BlueTV is basically a rebranded TVpad 4 box. Software and hardware is more
10 or less the same, there's only 1 main difference: it works in the US by default.
We have it up on our site as well now: BlueTV.

11 The text "BlueTV" at the end of the above quotation is a hyperlink to the
12 cntvpad.com website's blueTV product web page shown in Exhibit 3.

13 17. My testing of the blueTV device indicates that Internet claims that the
14 TVpad manufacturer (CNT) is the source of the blueTV device are accurate. My
15 research and testing also indicate that the internet claims I have seen about how the
16 blueTV device operates are accurate. As discussed below, it is accurate that the
17 blueTV is assigned a model number according to the same conventions as TVpad
18 devices have been assigned model numbers. It is also true that the blueTV and
19 TVpad remote controls operate interchangeably on both devices. The claims that
20 blueTV may be used in the United States to view unauthorized streaming video of
21 CCTV and TVB television programming via the "Storm TV" app are true as well.

22 Forensic Examination

23 18. Based on my forensic examination of the blueTV device, I have
24 observed numerous compelling indicia that the blueTV device and TVpad device are
25 functionally identical. I have also found other similarities that indicate the blueTV
26 and TVpad devices originate from the same source, namely CNT. Specifically:

- 27 i. The blueTV device and the TVpad device follow the same model
28 numbering scheme.

1 ii. The blueTV and TVpad retail boxes and devices (and the
2 arrangement of the devices and accessories in the retail boxes) physically
3 resemble one another.

4 iii. The blueTV and TVpad devices access domain names owned by
5 the same registrant to obtain operational and streaming video content.

6 iv. The blueTV and TVpad remote controls are interoperable.

7 v. The blueTV and TVpad apps stream the same infringing
8 programming using the same app “modes” that function in the same ways.

9 19. On February 10, 2017, I purchased a blueTV device model M425 from
10 the cntvpad.com website for \$1,388 Hong Kong Dollars (\$184 USD). Payment was
11 made through PayPal. A true and correct copy of the email receipt reflecting this
12 purchase, dated February 10, 2017, is attached hereto as **Exhibit 5**.

13 20. The model number for the current blueTV device, M425, follows the
14 model numbering scheme of multiple generations of the TVpad device. As I stated in
15 paragraph 18 of my March 6, 2015, declaration, and my colleague Christopher Weil
16 stated in paragraph 17 of his March 6, 2015 declaration, the TVpad4 device was also
17 identified by the model number M418, and the TVpad3 device was also identified by
18 the model number M358.

19 21. I received a package containing the blueTV device on February 21,
20 2017. The blueTV device was shipped via DHL from Hoogle (HK) Industry Co. Ltd.
21 and Abby Zhou, with an address in Shenzhen, China. A true and correct photograph
22 of the shipping label on the package containing the blueTV device, that I took on
23 March 22, 2017, is attached hereto as **Exhibit 6**.

24 22. I took the package to my office and opened it for testing. The blueTV
25 device arrived packaged in a white retail box. The contents of the box appeared to be
26 new and unused. A serial number and the network “MAC address”¹ were printed on

27 _____
28 ¹ A media access control, or “MAC,” address is a unique identifier assigned to
a networked digital device.

1 the underside of box. No manufacturer was specified. The prefixes of MAC
2 addresses are usually registered with the IEEE Standards Registration Authority, a
3 not-for-profit international standards organization. I searched the IEEE Standards
4 Registration Authority's database of MAC address prefix registrations, and the MAC
5 address on the blueTV retail box is not registered. The blueTV retail box contained
6 the blueTV device, a remote control, a power adaptor, an AV interface cable, a three-
7 foot HDMI cable and an instruction booklet. The underside of the blueTV device
8 bore the same unregistered MAC address as the one printed on the underside of the
9 blueTV retail box. Registering a MAC address requires disclosing corporate
10 ownership and ensures visibility in a public registry database. The failure of the
11 blueTV to provide a registered MAC address is significant, because doing so allows
12 blueTV to hide its corporate ownership from the public registry. True and correct
13 photographs of the blueTV retail box and its contents, including the blueTV device,
14 that I took on March 22, 2017, are attached hereto as **Exhibit 7**.

15 23. True and correct photographs of the TVpad retail box and its contents,
16 including the TVpad device, that I took on April 18, 2014, are attached hereto as
17 **Exhibit 8**.

18 24. As shown in Exhibits 7 and 8, the blueTV retail box resembles the
19 TVpad retail box, and these retail boxes contain the same items, arranged similarly.
20 As also shown in Exhibits 7 and 8, the blueTV device physically resembles the
21 TVpad device.

22 25. I plugged the blueTV device into a power outlet and connected it to a
23 television using the included HDMI cable. Once the blueTV device was powered up,
24 I followed onscreen prompts to set language, time zone and network settings.

25 26. Once the blueTV device established network connectivity, it performed
26 a DNS lookup² for the server located at the URL "raw.githubusercontent.com" and

27 _____
28 ² A DNS lookup is the querying of the Domain Name System (DNS) to
determine the IP address of a server associated with a given domain name.

1 received a response redirecting it to the host located at the URL
2 “github.map.fastly.net.” The domain names in these URLs, githubusercontent.com
3 and fastly.net, belong to the GitHub content delivery network. My previous testing of
4 the TVpad device showed that the TVpad device connects to these same GitHub
5 domains when it boots up.

6 27. The blueTV device then performed additional DNS lookups and
7 communicated with additional servers. A table identifying the servers and content
8 repositories used by the blueTV device to download operational and video content by
9 IP address, domain name and/or URL is attached hereto in **Exhibit 2**. Notably, nine
10 of these domain names are registered to the same owner (identified by the email
11 address TVdomain@163.com) as domain names my testing of the TVpad showed are
12 used by the TVpad to access operational and app store content.

13 28. In the course of my use of the blueTV device, I was able to use the
14 TVpad remote control that came with a TVpad device we purchased previously to
15 operate the blueTV device. I was also able to use the blueTV remote control that
16 came with this blueTV device to operate our TVpad device. The blueTV and TVpad
17 remote controls and devices were interoperable.

18 29. Like the TVpad, the blueTV has a proprietary “App Store” that end
19 users use to download applications or “apps” onto the device. I accessed the blue TV
20 App Store. The first two apps listed in the blue TV App Store are called “Storm TV”
21 and “风暴电视,” which is the Chinese-language version of the Storm TV app. I
22 confirmed visually that the interfaces of and content available by the English-
23 language and Chinese-language Storm TV app are identical.

24 30. As discussed above, according to Internet chatter, StormTV is the
25 blueTV-specific app that has the same infringing capabilities as multiple TVpad
26 apps, namely viewing Mainland and Hong Kong content in Live, Replay Live and
27 VOD modes. I observed the TVB and CCTV logos in preview images on the Storm
28 TV app page of the blue TV App Store. A true and correct photograph of the Storm

1 TV app page of the blue TV App Store, that I took on March 23, 2017, is attached
2 hereto as **Exhibit 9**.

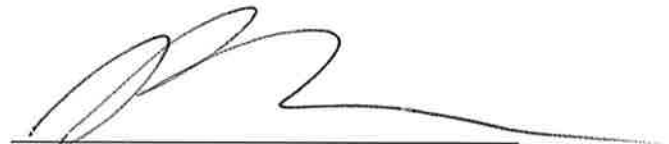
3 31. I downloaded the Storm TV app on the blueTV device and accessed it. I
4 used the Storm TV app to view TVB and CCTV television programming through all
5 of the functionalities also available on the TVpad device, as follows:

- 6 • Live Streaming mode: live television programming played at the same time on
7 the blueTV device as it is broadcast in Asia.
- 8 • VOD (video-on-demand) mode: remotely-recorded television programming,
9 not tied to a specific recent time period, played back on demand by the blueTV
10 user.
- 11 • Playback mode: remotely-recorded television programming for the last three
12 days, played back on demand by the blueTV user; this was known as "Replay
13 Live" on the TVpad.

14 True and correct photographs of the Storm TV app, showing its listing of TVB and
15 CCTV channels and showing it streaming TVB and CCTV content in various modes
16 that I took on March 23, 2017, are attached hereto as **Exhibit 10**.

17 I declare under penalty of perjury under the laws of the United States of
18 America that the foregoing is true and correct.

19 Executed this 17th day of April, 2017 in New York, New York.

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22 

23 Nicholas Braak
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